

REMARKS

Claims 1-10, 12-15, and 17-21 are now in the application.

Enclosed is the Terminal Disclaimer referred to in the response filed October 30, 2008, which waws apparently inadvertently omitted. The provisional rejection of claims 1-20 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1, 4 and 6-9 of US Patent Application 10/528,154 has been overcome by the filing of a Terminal Disclaimer. The filing of the Terminal Disclaimer is not to be construed as an admission, estoppel or acquiescence. See *Quad Environmental Technology v. Union Sanitary District*, 20 USPQ2d 1392 (Fed. Cir. 1991) and *Ortho Pharmaceuticals Corp. v. Smith*, 22 USPQ2d 1119 (Fed. Cir. 1992).

In view of the above and the response filed on October 30, 2008, consideration and allowance are respectfully solicited.

In the event the Examiner believes an interview might serve in any way to advance the prosecution of this application, the undersigned is available at the telephone number noted below.

The Office is authorized to charge any necessary fees to Deposit Account No. 22-0185, under Order No. 27604- 00003-US1 from which the undersigned is authorized to draw.

Dated: January 30, 2009
BAA/prb

Respectfully submitted,

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